IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 22006 of 2003

Between:

G. Rajani, D/o. Sri G. Krishna Rao, Metropolitan Magistrate,
Vijayawada, Krishna District.

..... PETITIONER

AND

The Registrar (Administration), High Court of AP,
Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Certiorari or any other appropriate Writ, calling for the Records pertaining to the proceedings which culminated in the order ROC.No. 1257/98-B3 dt.28.1.2000 issued by the respondent herein and set aside the same and consequently direct the respondent herein to enter the same and consequently direct the respondent herein to enter the date of birth of the petitioner as 27.5.1966 instead of 30.7.1964 in the service register of the petitioner and in the other relent records.

Counsel for the Petitioner: MR.A.V.SESHA SAI

Counsel for the Respondent: SMT.M.BHASKARA LAKSHMI (SC FOR APHC)

The Court made the following:

ORDER:

Writ petition is filed seeking to have the order dated 28.01.2000 set aside and consequently, to direct the respondent to enter the date of birth of the petitioner as 27.05.1966 instead of 30.07.1964.

Petitioner's case is that she was appointed as Junior Civil Judge by virtue of G.O.Ms.No.60 Law (LA. & J-Ets.C) Department dated 07.04.1998 and pursuant to the same, the High Court by proceedings dated 02.05.1998 posted her as II Additional Junior Civil Judge, Chittoor and thus, the petitioner joined the post on 16.05.1998. At the time of filing of the writ petition, petitioner was working as III Metropolitan Magistrate, Vijayawada. Her case is that inadvertently her date of birth was furnished as 30.07.1964 instead of 27.05.1966 by her grandfather at the time of admitting her in the school and the same was carried out in the S.S.C. certificate and also in the column of date of birth in the application made seeking appointment to the post of Junior Civil Judge. Petitioner's case is that as per Rule-2 of the A.P. Public Employment (Recording and Alteration of Date of Birth) Rules, 1984 (for short 'the Rules'), she submitted an application on 05.06.1998 to the respondent through proper channel seeking to declare her correct date of birth as 27.05.1966 on the basis of the entries in the Register of Births and Deaths of Bhimavaram Municipality, but without affording an opportunity to make representation and without referring to the documents produced by her, impugned order was passed on 28.01.2000 rejecting her application without assigning any valid or substantial reasons. Therefore, directions are sought for altering the date of birth.

The stand of the respondent in the affidavit filed in reply is that the petitioner cannot take shelter behind the aforesaid Rules, inasmuch as Sub-Rule-(5) of Rule-2 of the Rules clearly stipulates that the date of birth as determined on the basis of the school records or any proof produced at the time of entering into service and entered in the

service record shall be final and no subsequent variation of date of birth in the school record for any reason, shall be relevant for the purpose of service and on that basis the date of birth entered in the service record shall not be altered except in case of bonafide clerical error under the order of the Government. The original sub-Rule-(5) of Rule-2 of the Rules as it existed was substituted by the present sub-Rule-(5) by G.O.Ms.No.94, Finance & Planning, dated 15.03.1994.

Admittedly, the petitioner's date of birth as recorded in S.S.C. certificate is 30.07.1964. Same is the date of birth as recorded and declared by the petitioner in the application form seeking appointment to the post of Junior Civil Judge. On the basis of that date of birth, offer for the post of Junior Civil Judge was given to the petitioner and she joined the service. Same is the date of birth recorded when the petitioner obtained the degree of Law and got enrolled with the Bar council of Andhra Pradesh. The petitioner's case that she is entitled to have her date of birth declared within one month of joining the service by filing representation is wholly misconceived inasmuch as there was no dispute as regards the petitioner's date of birth till she submitted her representation. The submission of representation is an after thought after having joined service to take undue advantage of her own wrongs.

The respondent in his counter-affidavit has stated that in case petitioner's contention is accepted that her correct date of birth is 27.05.1966 and not 30.07.1964, she must have joined first standard at the age of 3 years, which is highly improbable, and also would have passed S.S.C. examination before completion of 13 years of age, which is not permissible. In case, her date of birth is taken as 30.07.1964 she must have been admitted to the school at the age of 5 years and completed S.S.C. examination at the age of 15 years, which is probable. In the instant case, it is sub-rule-(5) of Rule-2 of the Rules, which is applicable because the date of birth is determined on

the basis of school record or proof produced at the time of entering into service and once entered in the service record, there cannot be any correction in the date of birth except in case of any bonafide clerical error, which is not the case here. Petitioner is not entitled to have her fresh date of birth declared and was not entitled to have a further opportunity for declaring her date of birth since she entered into service on the basis of a particular date of birth and on the basis of which she got the entire education from S.S.C. onwards till obtaining degree of law and also got herself enrolled as an Advocate in the Bar Council and seeking employment in the judicial department.

The writ petition is accordingly dismissed.

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(DEVINDER GUPTA, CJ)

16.02.2005

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(B.SESHASAYANA REDDY, J)

DR

To

1. The Registrar (Administration), High Court of AP,
   Hyderabad.

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